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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,180	10/23/2003	Milton L. Gerber	UP-308	8440

7590

06/10/2004

George Pappas  
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919 S. Harrison Street  
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EXAMINER

DILLON JR, JOSEPH A

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/692,180

Applicant(s)

GERBER

Examiner

Joseph A. Dillon, Jr.

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9, 17-20, 22-30, 33, 34, 36, 37, 39 and 40 is/are rejected.
- 7) ☒ Claim(s) 4, 10-16, 21, 31, 32, 35 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2, 7-9, 20, 24-25, 30 & 37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With regard to claim(s) 2 & 20, these claim(s) are substantially identical in scope.

With regard to the balance of the claim(s), "downstream" and "upstream" should be, by-in-large, juxtaposed. For example, in claim(s) 7 vacuum is drawn in upstream of the blower, not downstream.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 5-8, 17-19, 22-30, 33-37, 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerber (6,364,579) in view of Zlotos.

With regard to claim(s) 1, 19 & 28, Gerber meets all the limitation(s) but lacks sensing or a control action. Zlotos teach(es) measuring fluid pressure/velocity.

The applicant is to note, as any real world sensor that measures pressure also measures velocity and vise-versa, either directly, analytically or through correlation, the examiner considers Zlotos as reading on either claim language.

It would have been obvious to modify Gerber to provide fluid pressure/velocity measurement in order to increase efficiency as taught by Zlotos.

5. Claims 1-3, 5-8, 17-19, 20, 22-30, 33-37, 39-40 rejected under 35 U.S.C. 103(a) as being unpatentable over Gerber (6,364,579) in view of Gerber et al. (6,092,747).

With regard to claim(s) 2 & 20, Gerber et al. teach(es) adjusting feed rate, Figure(s) 6.

It would have been obvious to modify Gerber to provide feed adjustment in order to increase efficiency as taught by Gerber et al.

6. Claims 1, 3, 5-8, 17-19, 22-30, 33-37, 39-40 rejected under 35 U.S.C. 103(a) as being unpatentable over Gerber (6,364,579) in view of Toyota et al.

With regard to claim(s) 9 & 34, Toyota et al. teach(es) a metering orifice 180.

It would have been obvious to modify Gerber to provide a metering orifice in order to increase efficiency as taught by Toyota et al.

### **Conclusion**

7. Claims 4,10-16,21,31,32,35 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph A. Dillon, Jr. whose telephone number is (703)305-9728. The examiner can normally be reached on 8-5:30, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (703)308-2560. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-7687 for regular communications and (703)308-0552 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1134.

A handwritten signature in black ink, appearing to read 'Joe Dillon, Jr.', with a stylized, cursive script.

**JOE DILLON, JR.**  
**PRIMARY PATENT EXAMINER**